

REMARKS

This Paper is submitted in response to the Office Action mailed on June 29, 2005 with a shortened statutory response period that ends on September 29, 2005. This Paper is submitted within the statutory period. Claims 12 and 18-27, 36-39, 41, and 46-47 are pending in this application. The Commissioner is hereby authorized to charge any additional fees to Deposit Account number 02-1818.

Claims 12, 18-27, 36-39, 41, and 46-47 are pending in this application. Claims 1-11, 13-17, 28-35, 40, 42-45, and 48 have been canceled. The indication of allowable subject matter in Claims 38 and 39 is noted with appreciation.

Claim 28 was rejected under 35 U.S.C. § 112 second paragraph for allegedly being indefinite. Claim 28 has been canceled rendering this rejection moot.

Claims 12, 21-23, 36, 37, and 46 were rejected under 35 U.S.C. § 102(b) for allegedly being anticipated by German reference DE 29912079 to Thiekoetter (*Thiekoetter*). Claim 40 was rejected under 35 U.S.C. § 102(b) for allegedly being anticipated by U.S. Patent No. 5,230,689 to Derby (*Derby*) or U.S. Patent No. 5,382,117 to Rings et al. (*Rings*). Claim 29 was rejected under 35 U.S.C. § 103(a) for allegedly being obvious over U.S. Patent No. 3,194,471 to Murphy (*Murphy*) in view of *Derby*. Claims 12, 18-21, 23-31, 33, 35, 36, and 40-48 were rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,788,121 to Sasaki et al. (*Sasaki*) in view of U.S. Patent No. 4,306,668 to Love (*Love*). Applicants respectfully traverse and disagree with these rejections.

Claims 29 and 40 have been canceled rendering the rejections based on *Derby*, *Rings* and *Murphy* moot.

It is a well settled axiom of patent law the every word in a claim must be considered in judging patentability of the claim. *In re Ochiai*, 71 F.3d 1565, 1572, 37 USPQ2d 1127, 1133 (Fed. Cir. 1995); *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). Thus, when the claims are properly interpreted, it is clear that no combination of *Thiekoetter*, *Love* and *Sasaki* teaches or suggests 1) an enclosed flexible container of at least 200L disposed 2) in a rigid box, as recited in the present claims.

1. *Thiekoetter teaches away from a closed 200 liter flexible container*

Thiekoetter teaches away from a closed container having a volume greater than 200 liters as recited in the present claims. *Thiekoetter* merely discloses a tea bag hanger for hanging a tea bag in a tea pot. Thus, the tea bag (i.e., the flexible container) is porous teaching away from a closed flexible container. Moreover, *Thiekoetter* has no disclosure whatsoever directed to a flexible container having a volume greater than 200 liters. As *Thiekoetter* discloses a porous flexible container *Thiekoetter* teaches away from the present claims.

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2. *Love teaches away from an enclosed flexible container*

Love teaches away from an enclosed flexible container as recited in the present claims. *Love* discloses a flexible bag having a screen ventilator 24 disposed on sidewall of the flexible bag. *Love*, col. 3 lines 22-31, Figure 2. Ventilator screen 24 permits air flow into and out of the flexible bag during the filling and emptying process. *Id.* The skilled artisan would recognize that a flexible bag having a screen ventilator permitting airflow into and out of the bag is not a closed container. As *Love* discloses a flexible bag with a hole in a sidewall thereof, *Love* teaches away from a closed flexible container as recited in the present claims.

3. *Love teaches away from a rigid support container*

Love teaches away from a rigid support container as recited in the present claims. *Love* discloses a frame with four posts and flexible webbing extended between the posts. *Love*, col. 2 lines 10-22. The flexibility of the webbing permits an inner bag disposed within the frame to bulge outward when the inner bag is full. *Id.* As *Love* discloses a frame with flexible webbed sidewalls, Love teaches away from the rigid box as recited in the present claims.

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4. *Sasaki does not disclose or suggest a 200 liter flexible container*

Sasaki does not disclose or suggest a flexible container having a volume greater than 200L as recited in the present claims. Rather, *Sasaki* discloses a bag-in-box device wherein the inner flexible bag may be from 5-25 liters in volume. *Sasaki*, col. 5 lines 53-56. Moreover, the small volume of *Sasaki's* inner flexible container permits the *Sasaki* inner flexible container to be self-standing when filled with liquid. *Sasaki*, col. 6 lines 21-29. This suggests that the *Sasaki* bag would be wholly incapable of containing greater than 200 liters of a liquid as large volume

flexible containers are not free-standing. *See* present application, page 1 lines 19-29. Indeed, the skilled artisan would readily recognize that large volume flexible containers greater than 200 liters in volume require unique structural properties and seam design characteristics in order to withstand the significant hydraulic forces imposed upon the container by the large volume of liquid therein. *See* present application, page 1 lines 19-29. Consequently, one of ordinary skill in the art would immediately acknowledge that the material composition and the seam structure of *Sasaki's* 5-25 liter flexible inner bag would be wholly incapable of withstanding the hydraulic forces of greater than 200 liters of liquid. *Sasaki's* 5-25 liter inner flexible container thereby fails to disclose or suggest a flexible container with a volume greater than 200 liters as recited in the present claims.

Thiekoetter's teaching away from a closed flexible container and *Love's* teaching away from 1) an enclosed container and 2) a rigid box are *per se* demonstrations of lack of *prima facie* obviousness. *In re Dow Chemical Co.*, 837 F.2d 469 (Fed. Cir. 1988). Thus, any alleged rejection based on *Thiekoetter* and/or *Love* is *per se* non-obvious. Moreover, *Sasaki* fails to teach or suggest a flexible container having a volume greater than 200 liters. Consequently, no combination of *Thiekoetter*, *Love* and *Sasaki* teaches or suggests the subject matter recited in the present claims.

CONCLUSION

For the foregoing reasons, Applicants respectfully submit that the patent application is in condition for allowance and request a Notice of Allowance be issued.

Respectfully submitted,

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